



Network for investigation and  
prosecution of genocide, crimes  
against humanity and war crimes



## **Conclusions of the 24<sup>th</sup> meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes**

*The Hague, 24-25 May 2018*

1. The Bulgarian Presidency of the Council of the EU and the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (hereinafter referred as the 'Network') stressed the importance of the Network as a forum for practitioners to exchange information, facilitate cooperation and enhance national investigations and prosecutions to bring perpetrators to justice and close the impunity gap for the crime of genocide, crimes against humanity and war crimes (hereinafter referred as 'core international crimes').
2. Taking into account the commitment of Bosnia and Herzegovina in fighting core international crimes, the Network welcomed Bosnia and Herzegovina as an Observer, enabling experience-sharing between practitioners, mutually benefiting from the discussions of the meeting. The Network also welcomed the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic since March 2011 (IIIM) as an Associate, providing opportunities for close cooperation with national authorities.
3. The Members of the Network expressed their appreciation for the opening of the Analysis Project Core International Crimes (AP CIC) by Europol in November 2017 and welcomed support provided to national authorities on ongoing and future investigations of core international crimes.
4. The Network members welcomed the focus of the open session on the preservation of open source information available on social media in the context of investigation and prosecution of core international crimes. Considering the large number of ongoing cases using open source information as evidence and the increase of judgements for which this type of evidence has been used, the preservation of material is an issue of utmost importance. In light of the fact that core international crimes are not statute-barred and proceedings can take place in the distant future using open source information uploaded in the past, the Network members considered open source information available on social media to be an indispensable and rich source of potential evidence for national authorities in the current and especially the future pursuit of accountability.
5. The Network appreciated the presentations on Google/YouTube's and Facebook's policies and tools available for effective cooperation between them as service providers and judicial or law enforcement authorities. It recognised their procedures to preserve content removed from the



Internet on request of a national authority. Furthermore, the presentations highlighted the scale and the temporary nature of open source information.

6. The Network took note of the legal environment in which Google and Facebook as social media providers are working and acknowledged the need to remove terrorist or other violent extremist propaganda from social media for purposes of security or public order. However, in view of fighting impunity effectively and comprehensively, members of the Network emphasized that this content can simultaneously constitute or could lead to evidence in core international crime cases. The Network noted that inappropriate content was increasingly being removed at the initiative of the social media companies, without any referral from public authorities, and urged them to preserve the removed content for a long period of time with sufficient data enabling future searches (metadata of the removed content).

7. The Network members took note of the work of Bellingcat and the EyeWitness Project and acknowledged the efforts of civil society to develop projects on the preservation of digital evidence as a contribution to an effective fight against impunity of perpetrators of core international crimes. In this respect, documentation processing and analysis as provided by Bellingcat and the EyeWitness Project are potentially important for national authorities when investigating core international crimes.

8. The Network appreciated the presentations of Germany and Sweden concerning their experience in prosecuting crimes committed in Syria based on open source evidence and highlighted the need to enable translation of the relevant judgements for practitioners due to the relevance of this jurisprudence for other jurisdictions.

9. The Network noted with interest the ICC's experience concerning the best processes for collection, analysis and preservation of evidence derived from open source information and its cases.

10. The Network welcomed the presentation on the use of preservation requests and Mutual Legal Assistance (MLA) requests to obtain content or non-content data from social media providers and/or the US authorities. The Members of the Network agreed that timely MLA in matters of preservation of evidence is a key aspect of preserving data necessary to efficiently fight impunity.

11. The Members of the Network took note with great interest of the presentations about the criminal investigations and proceedings in Germany in relation to the crime of genocide committed against Yazidis in Northern Iraq since 2014. The Network recognised the unique challenges connected with criminal proceedings regarding core international crimes at the domestic level and expressed appreciation for successfully addressing the legal and factual challenges. The Network also acknowledged the work of the office of Amal Clooney and the support provided to the affected community.



12. The Network members welcomed the presentation by a representative of the International Commission on Missing Persons (ICMP). The Network members expressed their appreciation for the support provided by the ICMP to national authorities in investigating and prosecuting core international crimes.

13. The Network appreciated the information on the Kosovo Special Prosecutor's Office. The Members of the Network welcomed upcoming opportunities for cooperation on core international crime cases.

14. The Network members expressed their appreciation for the update on the Initiative for a new Treaty on Mutual Legal Assistance and Extradition for domestic prosecution of the most serious international crimes. The Network took note of the considerable development of the Initiative regarding the Treaty, which will be discussed in a core group meeting on 13 June 2018, and strongly supports the preparatory conference and the *ad hoc* diplomatic conference of co-sponsoring and observer states. In view of the Network's dedication to fighting impunity for the crime of genocide, crimes against humanity and war crimes, the Network encouraged all members to participate in the process.

15. The Network noted the presentations of civil society organisations regarding their work on universal jurisdiction and encourages their close cooperation with Member States. The Members of the Network appreciated the project of the Open Society Justice on accountability for Syria and acknowledged underlying challenges.

16. The Network highly appreciated the establishment of the Exclusion Network of the European Asylum Support Office. Due to the fact that immigration offices are the first authorities to come in contact with persons coming from places affected by violations of international humanitarian law and human rights, an exchange of information between both Networks is considered necessary and highly beneficial to the efforts to prevent European territory from becoming a safe haven for perpetrators. The Network mandated the Secretariat to strengthen cooperation with the Exclusion Network, establish a strong relationship and invite it to become an associate of the Genocide Network.

17. The Members of the Network appreciated the efforts of the Working Group established according to the conclusions of the 23<sup>rd</sup> meeting of the Network, supported by the Secretariat, and welcomed the presentation of the draft proposal for guidelines on the functioning of the Network.

18. The Network members took note of the decision by Eurojust to provisionally terminate French-English interpretation due to budgetary restrictions at Eurojust with disappointment. The Members of the Network highly appreciated the support of the Special Tribunal for Lebanon in providing French-language interpreters for the 24<sup>th</sup> Genocide Network meeting. Considering the added value of French interpretation in the quality of meeting discussions, the Network emphasised its will to pursue the use of French as a working language.



20. The Network reiterated the need for a regular meeting per EU Presidency, according to its legal basis, with an open and closed session. In addition, ensuring the option of additional *ad hoc* operational meetings on specific situations or cases is necessary. The Network members stressed the importance of the Network meetings for the work of national authorities in addressing individual criminal responsibility of perpetrators of core international crimes. In this respect, the Network reiterated its call to the European Commission to ensure implementation of the Conclusions of the JHA Council of 15-16 June 2015 (doc. 15584/2/14).

21. The Network noted with deep concern the information on the Secretariat's budget and personnel and expressed its disappointment at the continuous decrease of resources. The members of the Network called upon the European Commission and Eurojust to allocate appropriate resources, budget and staff to the Network Secretariat to enable the Network to thoroughly and comprehensively fulfil its mandate. In light of the challenges faced by domestic authorities in investigating and prosecuting core international crimes arising from current armed conflicts such as those in Syria, Libya and Ukraine, the Network emphasized the importance of ensuring consistent twice a year Network meetings and the capacity for *ad hoc* meetings, which allow for regular exchange of operational information and situational responses to challenges in a joint and coordinated fight against impunity for perpetrators of core international crimes.

22. The Network members took note of the update of the Secretariat's activities and administrative matters. The members of the Network expressed appreciation for the Secretariat's dedication and its continued successful activities to raise awareness and improve support for the fight against impunity on national and international levels. The Network members stressed their support for the planned evaluation of the Network and its Secretariat, and for the overview of the implementation of the Network's Strategy, adopted in 2014.

23. The Network members expressed gratitude for the successful organisation of the 3<sup>rd</sup> EU Day against Impunity for the crime of genocide, crimes against humanity and war crimes on 23 May 2018, which was co-organised by the Bulgarian Presidency, the European Commission, the International Criminal Court, Eurojust and the Network, as an important event to raise awareness of the commitment of the European Union and the Member States to the domestic fight against core international crimes.

24. The Network members expressed their appreciation for successful implementation of the second training programme on core international crimes for judges and prosecutors, organised jointly by the Network and the European Judicial Training Network (EJTN) in 2017 in Nuremberg, and expressed again their gratitude to the Nuremberg Principles Academy for their support. Further close cooperation with CEPOL would be beneficial to develop training in investigating core international crimes.

25. During the closed session of the meeting, the Network members and the observers acknowledged the value of discussing ongoing investigations and shared experience. They will dedicate more time, including breakout sessions, to discuss specific cases relevant to several



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national authorities. The closed sessions are essential, establishing a confidential environment for the exchange of information on current investigations and, if appropriate, requests for extradition pertinent to the work of the Network. The Network emphasized the importance of meetings on specific situations, such as those relating to the ongoing conflicts in Syria and Iraq, facilitating a proactive approach to combating impunity that must also be ensured in the future.

26. While assembling a pool of areas of focus for future meetings, the Network members expressed their interest in learning more about and discussing topics related to:

- Secondary trauma relating to prosecutors, investigators and other persons, as well as NGOs, investigating and prosecuting core international crimes;
- Improving tools for the continued sharing of information on specific conflict situations;
- Model MLA requests for the purposes of investigation and prosecution of international crimes to find best practice for the Network members, including a template for requests to UN fact-finding bodies;
- New investigative approaches relating to links between core international crimes and transnational organised crime *and terrorism*;
- Effects of post-traumatic stress on the reliability of witnesses' memories;
- Outreach communication strategy related to the affected communities or diaspora;
- Attribution of criminal responsibility for committing core international crimes;
- Core international crimes committed in cyberspace;
- Implementation and application of the crime of aggression in domestic legislation;
- Methods of introducing and presenting well-known facts in the evidentiary documents of a case;
- Rules of engagement and the principles of distinction and proportionality as challenges in modern and asymmetric armed conflicts;
- Victim participation in international crime cases;
- Survey of new developments in immunities of foreign officials and heads of state;
- Investigation methods of the ICC, e.g. in Libya; and
- Experience in investigating/prosecuting on basis of/with help from Eurojust/Europol.